

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

KATHLEEN ARNOLD LANGDON,)	
)	
Plaintiff/Appellant,)	2 CA-CV 2008-0152
)	DEPARTMENT B
v.)	
)	<u>MEMORANDUM DECISION</u>
ELLA MAUREEN ARNOLD, Executor)	Not for Publication
of the Estate of Catherine M. Arnold,)	Rule 28, Rules of Civil
deceased,)	Appellate Procedure
)	
Defendant/Appellee.)	
)	

APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. CV-200300537

Honorable Gilberto V. Figueroa, Judge

AFFIRMED

Kathleen Arnold Langdon

Huntsville, Missouri
In Propria Persona

Cooper & Rueter, L.L.P.
By Stephen R. Cooper

Casa Grande
Attorneys for Defendant/Appellee

E C K E R S T R O M, Presiding Judge.

¶1 Appellant Kathleen Langdon appeals from the trial court's order dismissing her complaint with prejudice and awarding attorney fees to Ella Arnold, who is Langdon's sister and executrix of their mother's estate. We affirm the court's orders for the reasons that follow.

Factual and Procedural Background

¶2 The present appeal arises out of protracted litigation that began eight years ago and has been the subject of three prior appellate court decisions, one of which was by the Missouri Court of Appeals and the remaining two by this court. *Langdon v. Arnold*, No. 2 CA-CV 2006-0104 (memorandum decision filed Dec. 12, 2006); *Langdon v. Arnold*, No. 2 CA-CV 2005-0046 (memorandum decision filed Nov. 9, 2005). Arnold was the sole defendant in the cause of action as of 2005, and the claims that remained against her were fraud, embezzlement, theft, civil conspiracy, and theft of lien payment.

¶3 After we issued our 2006 memorandum decision affirming an award of attorney fees against Langdon and rejecting her challenge to the trial court's denial of her motion for change of venue, *Langdon*, No. 2 CA-CV 2006-0104,¹ the trial court set a trial date for July 24, 2008. The court also ordered Langdon to file a pretrial statement by July 17, 2008, listing the factual and legal issues to be resolved, the witnesses to be called, and the exhibits to be used at trial. *See* Ariz. R. Civ. P. 16(d). Rather than filing a pretrial statement

¹We treated Langdon's challenge to the ruling on her motion for change of venue as a special action, accepted jurisdiction, and denied relief.

by this deadline, however, Langdon filed a “motion for leave to withdraw complaint without prejudice” on July 22, 2008. Arnold opposed the motion and moved for sanctions pursuant to Rule 11, Ariz. R. Civ. P., and Rule 37(b)(2)(C), Ariz. R. Civ. P., based on Langdon’s refusal to comply with the court’s order.

¶4 The trial court held an emergency hearing on the matter, vacated the trial date, granted Langdon’s request, and dismissed the complaint. The court also directed Arnold to amend her motion for sanctions and ordered the parties to submit memoranda regarding whether the complaint should be dismissed with prejudice. The court subsequently found Langdon’s “request to [d]ismiss was a ruse to obtain a continuance of the trial date which she knew the Court would not allow.” Having concluded Langdon inappropriately sought to delay the trial and sought reinstatement of her claims “solely to harass or annoy” Arnold, the court found sanctions were warranted under Rule 11 and A.R.S. § 12-349. The court therefore dismissed Langdon’s complaint with prejudice and awarded Arnold \$1,500 in attorney fees. The court also found that the claims were properly dismissed with prejudice because they were barred by the applicable statutes of limitation. We have jurisdiction of Langdon’s appeal pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(D).

Discussion

¶5 Langdon contends, *inter alia*, the trial court erred in imposing sanctions against her and dismissing her complaint with prejudice. However, she has provided no citations to the record or any legal authorities in her *pro se* brief to support these specific arguments.

¶6 Rule 13(a)(6), Ariz. R. Civ. App. P., requires that arguments in opening briefs “contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on.” “Parties who choose to represent themselves ‘are entitled to no more consideration than if they had been represented by counsel’ and are held to the same standards as attorneys with respect to ‘familiarity with required procedures and . . . notice of statutes and local rules.’” *In re Marriage of Williams*, 219 Ariz. 546, ¶ 13, 200 P.3d 1043, 1046 (App. 2008), quoting *Smith v. Rabb*, 95 Ariz. 49, 53, 386 P.2d 649, 652 (1963) (alteration in *Williams*). A party’s failure to develop an argument in an opening brief will result in waiver of the claim. *State v. Carver*, 160 Ariz. 167, 175, 771 P.2d 1382, 1390 (1989); *Lohmeier v. Hammer*, 214 Ariz. 57, n.5, 148 P.3d 101, 108 n.5 (App. 2006). We will not address arguments raised for the first time in a reply brief. *State v. Edmisten*, 552 Ariz. Adv. Rep. 3, n.2 (Ct. App. Mar. 23, 2009).

¶7 Although Langdon has submitted a lengthy opening brief peppered with legal quotations and citations in various sections, she has failed to develop and legally support her arguments with respect to the trial court’s imposition of sanctions, including the dismissal of her claims with prejudice.² The arguments are therefore waived. Although Langdon

²Although Langdon argues generally that “[p]ublic policy favors adjudication on the merits” and provides general case citations regarding our standards of review, these do not constitute specific arguments as to why the trial court abused its discretion in determining that Langdon’s claims, given its unique litigation history, should be dismissed with prejudice. And, to the extent Langdon suggests a trial court inevitably violates the United States

attached a memorandum apparently filed in the trial court and attempted to incorporate it into the argument section of her brief relating to the imposition of sanctions, such practice is not permitted. *Cf. State v. Walden*, 183 Ariz. 595, 605, 905 P.2d 974, 984 (1995) (under analogous rule of criminal procedure, “[a]rgument must be in the body of the brief,” and text in appendix stricken), *overruled on other grounds by State v. Ives*, 187 Ariz. 102, 927 P.2d 762 (1996). Moreover, Langdon has presented no argument regarding the alternative ground on which the trial court ordered her claims dismissed with prejudice, namely that they were precluded by the applicable statutes of limitation.

¶8 Furthermore, we review a trial court’s imposition of sanctions for an abuse of discretion. *Green v. Lisa Frank, Inc.*, No. 2 CA-CV 2008-0028, ¶ 40, 2009 WL 303787 (Ariz. Ct. App. Jan. 20, 2009). Langdon has not provided any transcripts on appeal. In the absence of a transcript of the relevant proceeding, we assume the record supports the trial court’s findings. *See In re Estate of Mustonen*, 130 Ariz. 283, 284, 635 P.2d 876, 877 (App. 1981). Thus, we find no abuse of discretion on the record before us.

¶9 Because Langdon has waived the foregoing arguments, we affirm the trial court’s imposition of sanctions, dismissal of the case with prejudice, and award of attorney fees. We therefore need not address Langdon’s claims concerning judicial notice, the

Constitution by dismissing a case before there has been an adjudication on the merits, that is simply not the law. *See, e.g., Green v. Lisa Frank, Inc.*, No. 2 CA-CV 2008-0028, ¶¶ 1, 39, 2009 WL 303787 (Ariz. Ct. App. Jan. 20, 2009) (finding dismissal of claims with prejudice complied with due process).

discovery of evidence, due process, the court “virtually ignoring the original complaint when it was filed,” or the court’s perceived use of “threats and intimidation,” because such claims are moot assuming the validity of the dismissal and sanction orders. *See Lana A. v. Woodburn*, 211 Ariz. 62, ¶ 9, 116 P.3d 1222, 1225 (App. 2005) (appeals court typically does not address moot issues).

Disposition

¶10 We affirm the trial court’s order entered September 2, 2008. We deny Arnold’s request for reasonable attorney fees and costs on appeal pursuant to A.R.S. § 12-341.01, because she has neither specified which subsection of the statute she believes applies to this case nor provided any argument explaining why she is entitled to an award of fees.

PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

J. WILLIAM BRAMMER, JR., Judge

JOSEPH W. HOWARD, Judge